

JUSTIN X. WANG (CSB #166183)
BAUGHMAN & WANG
 111 Pine Street, Suite 1350
 San Francisco, California 94111
 Telephone: (415) 576-9923
 Facsimile: (415) 576-9929

Attorney for Plaintiffs
 DILBAR SABITOVA;
 KHASIYAT SABITOVA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DILBAR SABITOVA;
 KHASIYAT SABITOVA;

Plaintiffs

vs.

MICHAEL CHERTOFF, Secretary of the
 Department of Homeland Security;
 ROBERT S. MUELLER, Director of Federal
 Bureau of Investigation

Defendants.

Case No.:

**COMPLAINT FOR WRIT IN THE
 NATURE OF MANDAMUS**

"Immigration Case"

Plaintiffs Dilbar SABITOVA and Khasiyat SABITOVA, by and through their undersigned attorney, sue Defendants and state as follows:

1. This action is brought against the Defendants to compel action on the Application to Adjust to Permanent Resident Status, or Form I-485, by Plaintiffs Dilbar SABITOVA and Khasiyat SABITOVA, based on their asylee status, properly filed by the Plaintiffs. The I-485 applications remain within the jurisdiction of the Defendants, who have improperly withheld action on said application to Plaintiffs' detriments.

PARTIES

2. Plaintiffs Dilbar SABITOVA Khasiyat SABITOVA, daughter and mother, are natives and citizens of the Uzbekistan. Their Form I-485, Application to Register Permanent Resident or Adjust Status, were received by the U.S.C.I.S. on December 3, 2001 and are seeking to become permanent residents of the United States based on their asylee status.

3. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security (DHS), and this action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of the DHS 8 U.S.C. 1103(a); 8 C.F.R. 2.1.

4. Defendant Robert S. Mueller, III, is Director of the Federal Bureau of Investigations (FBI), the law enforcement agency that conducts security clearances for other U.S. government agencies, such as the Department of State. As will be shown, Defendant has failed to complete the security clearance on Plaintiffs' case.

JURISDICTION

5. Jurisdiction in this case is proper under 28 USC §§1331 and 1361, 5 USC §701 *et seq.*, and 28 USC §2201 *et seq.* Relief is requested pursuant to said statutes.

VENUE

6. Venue is proper in this court, pursuant to 28 USC §1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where the lead Plaintiff resides if no real property is involved in the action.

EXHAUSTION OF REMEDIES

7. Plaintiffs have exhausted their administrative remedies.

CAUSE OF ACTION

8. Plaintiffs Dilbar SABITOVA and Khasiyat SABITOVA, mother and daughter, are natives and citizens of the Uzbekistan. Their Form I-485, Application to Register Permanent Resident or Adjust Status, were received by the U.S.C.I.S. on December 3, 2001 (**Exhibit 1: I-485 RFE Notice for Plaintiff Dilbar SABITOVA and I-485 Transfer Notice for Plaintiff Khasiyat SABITOVA, Showing Receipt Numbers**). Plaintiff Khasiyat SABITOVA's I-485 case is allegedly at National Record Center, which means that her I-485 might have been inadvertently closed by the Service.

9. According to the Service Center processing dates, the USCIS Nebraska Service Center is currently processing I-485 asylee adjustment application filed on February 1, 2006 (**Exhibit 2: Copy of NSC Processing Dates Posted on July 16, 2007**). Plaintiffs' I-485 applications have

1 now remained pending for almost five years and eight months from the date of the filing.

2 10. Defendants' refusal to act in this case is, as a matter of law, arbitrary and not in accordance
3 with the law. Defendants unreasonably have delayed in and have refused to adjudicate Plaintiffs'
4 I-485 applications for almost five years and eight months from the date of filing, thereby
5 depriving Plaintiffs of the rights to the decision on their applications and the peace of mind to
6 which Plaintiffs are entitled.

7 11. Plaintiffs have been damaged by the failure of Defendants to act in accord with their duties
8 under the law.

9 (a) Plaintiffs Dilbar SABITOVA and Khasiyat SABITOVA have been damaged by
10 simply being deprived of the adjudication of their Application to Adjust to
11 Permanent Resident Status for almost five years and eight months. Plaintiffs have
12 also been unable to plan any foreign travel or pursue a future course of action in
13 the United States due to the pendency of their I-485 applications.

14 12. The Defendants, in violation of the Administrative Procedures Act and Mandamus Act, 5
15 USC §701 *et seq.*, are unlawfully withholding or unreasonably delaying action on Plaintiffs' I-485
16 applications and have failed to carry out the adjudicative functions delegated to them by law with
17 regard to Plaintiffs' cases.

18 **PRAYER**

19 13. WHEREFORE, in view of the arguments and authority noted herein, Plaintiffs
20 respectfully pray that the Defendants be cited to appear herein and that, upon due consideration,
21 the Court enter an order:

22 (a) requiring Defendants to expeditiously complete Plaintiffs Dilbar SABITOVA's and
23 Khasiyat SABITOVA's FBI Security Check for their I-485 applications, if security check is the
24 only reason for the delay;

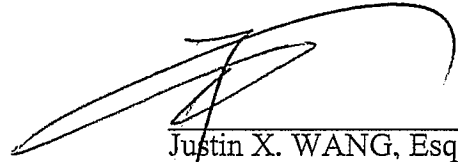
25 (b) requiring Defendants to expeditiously process Plaintiffs' I-485 applications to
26 conclusion;

27 (c) awarding Plaintiffs reasonable attorney's fees under the Equal Access to Justice Act;
28 and

(d) granting such other relief at law and in equity as justice may require.

Dated: July 30, 2007

Respectfully submitted,


Justin X. WANG, Esq.
Attorney for Plaintiff

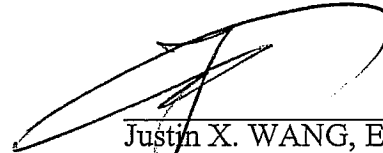
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CERTIFICATION OF INTERESTED ENTITIES OR PERSON

Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

Dated: July 30, 2007

Respectfully submitted,



Justin X. WANG, Esq.
Attorney for Plaintiff

LIST OF ATTACHMENTS

<i>Exhibit</i>	<i>Description</i>
1	I-485 RFE Notice for Plaintiff Dilbar SABITOVA and I-485 Transfer Notice for Plaintiff Khasiyat SABITOVA, Showing Receipt Numbers
2	Copy of NSC Processing Dates Posted on July 16, 2007

Ex-1

Department of Homeland Security
P.O. Box 82521
Lincoln, NE 68501-2521



U.S. Citizenship
and Immigration
Services

November 29, 2005

Refer to File Number: LIN0205251162



DILBAR SABITOVA
3219 ADELINE ST
BERKELEY CA 94703

Dear Sir or Madam:

RE: Form: I485

Beneficiary: SABITOVA, DILBAR

REQUEST FOR EVIDENCE

The documentation submitted is not sufficient to warrant favorable consideration of your petition/application.

See Attachment for Details

Your response must be received in this office by February 21, 2006.

Your case is being held in this office pending your response. Within this period you may:

1. Submit all of the evidence requested;
2. Submit some or none of the evidence requested and ask for a decision based upon the record; or
3. Withdraw the application or petition. (It is noted that if you request that the application or petition be withdrawn, the filing fee cannot be refunded).

You must submit all of the evidence at one time. Submission of only part of the evidence requested will be considered a request for a decision based upon the record. No extension of the period allowed to submit evidence will be granted. If the evidence submitted does not establish that your case was approvable at the time it was filed, it can be denied.

If you do not respond to this request within the time allowed, your case will be considered abandoned and denied. Evidence received in this office after the due date may not be considered.

PLACE THIS LETTER ON TOP OF YOUR RESPONSE. SUBMISSION OF EVIDENCE WITHOUT THIS LETTER WILL DELAY PROCESSING OF YOUR CASE AND MAY RESULT IN A DENIAL. PLEASE USE THE ENCLOSED ENVELOPE TO MAIL ADDITIONAL EVIDENCE REQUEST BACK TO THIS OFFICE.

Sincerely,

Paul M. Pierre
Acting Director

NSC/DTO EX162



RECEIPT NUMBER LIN-02-052-51131		CASE TYPE I485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS	
RECEIPT DATE December 3, 2001	PRIORITY DATE	APPLICANT A077 845 277 SABITOVA, KHASIYAT	
NOTICE DATE September 8, 2006	PAGE 1 of 1		
KHASIYAT SABITOVA 1141 BRIGHTON BEACH AVENUE BROOKLYN NY 11235		Notice Type: Transfer Notice	

This is to advise you that in order to speed processing we have transferred the above case to the following INS office for processing:

75 Hawthorne Street, #3038, San Francisco, CA 94104

Telephone: (415) 556-6815

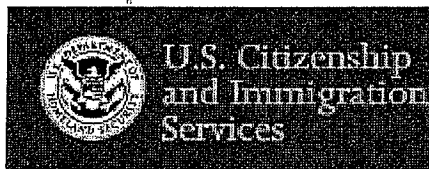
That office will notify you of the decision made on the application or petition. Any further inquiries should be made to that office.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

NEBRASKA SERVICE CENTER
U. S. IMMIG. & NATZ. SERVICE
P.O. BOX 82521
LINCOLN NE 68501-2521
Customer Service Telephone: 800-375-5283



Ex. 2


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U.S. Citizenship and Immigration Services

Nebraska Service Center Service Center Processing Dates

Posted July 16, 2007

Notice: U.S. Citizenship and Immigration Services (USCIS) has improved the reporting procedure for processing times of immigration benefit applications. In the past, USCIS benefit processing reports indicated the specific type of applications or petitions that were being processed and the date the cases were received. However, the date the case was received did not provide a clear indication of when USCIS expected to complete the case, nor did it provide a clear indication of USCIS' commitment to process cases within a certain cycle time. It also did not align with the processing times and cycle times the agency reports in other contexts.

This improved reporting procedure is an effort to give our customers more accurate information that better reflects current processing time and USCIS service level commitments. Effective immediately, when we are completing applications and petitions within our service level goals we will report that as the processing time. For example, when our service level goal is to process a particular kind of case within six months, and if our processing time is six months or less, we will show a date consistent with our service level goal because that reflects our commitment.

When we are not meeting our service level goal, the date posted will reflect the filing date of cases that are being completed. It should be noted that while in some instances reported processing dates may appear to have regressed due to this change, they do not reflect a lengthening of USCIS processing times, but simply the change in reporting. Our goal is to provide accurate projections and thus give customers clear expectations as to what they can expect as a processing time.

There are several important exceptions to the processing times shown below:

- Case processing will be delayed if we must ask you for more evidence or information.
If we ask for missing required initial evidence, count the processing time from when we receive that missing evidence.
- The case processing timeframe will start over if a customer doesn't appear for an interview or asks that it be rescheduled.

What if I have a problem or have questions about a case?

We offer a variety of services after you file. For example, for most kinds of cases you can [check the status of your case online](#).

For more information about when and how to contact us, whether your case is outside our processing time or if there are other issues, please see our fact sheet –

[Case Services - How do I... know what kind of services are available to me after I file my application or petition?](#)

One additional point about these projections. They are the time to complete processing and mail the actual notice and/or document. If you check case status online and see that your case has been approved, and you haven't yet received your approval notice or document in the mail, we ask that you wait thirty days from the approval date before contacting us. That is because it may take that long before it is returned to us as undeliverable. You can also print the case status online answer

for your records.

Service Center Processing Dates for **Nebraska Service Center** Posted July 16, 2007

Form	Title	Classification or Basis for Filing	Now Processing Cases with Receipt Notice Date of
I-90	Application to Replace Permanent Resident Card	Initial issuance or replacement	November 06, 2006
I-90	Application to Replace Permanent Resident Card	10-year renewal	October 08, 2005
I-90A	Application to Replace Permanent Resident Card	Initial issuance or replacement for Special Agricultural Workers (SAW)	January 13, 2007
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record	Initial issuance or replacement of a Form I-94	March 22, 2007
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Visa to be issued abroad	May 15, 2006
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Change of status in the U.S.	May 15, 2006
I-129	Petition for A Nonimmigrant Worker	H-1B - Specialty occupation - Extension of stay in the U.S.	May 15, 2006
I-129	Petition for A Nonimmigrant Worker	H-2A - Temporary workers	June 30, 2007
I-129	Petition for A Nonimmigrant Worker	H-2B - Other temporary workers	June 15, 2007
I-129	Petition for A Nonimmigrant Worker	H-3 - Temporary trainees	May 15, 2006
I-129	Petition for A Nonimmigrant Worker	L - Intracompany transfers	June 15, 2007
I-129	Petition for A Nonimmigrant Worker	Blanket L	May 15, 2006
I-129	Petition for A Nonimmigrant Worker	O - Extraordinary ability	May 15, 2006
I-129	Petition for A Nonimmigrant Worker	P - Athletes, artists, and entertainers	May 15, 2006
I-129	Petition for A Nonimmigrant Worker	Q - Cultural exchange visitors and exchange visitors participating in the Irish Peace process	May 15, 2006
I-129	Petition for A Nonimmigrant Worker	R - Religious occupation	May 15, 2006
I-129	Petition for A Nonimmigrant Worker	TN - North American Free Trade Agreement (NAFTA) professional	May 15, 2006
I-131	Application for Travel Document	Permanent resident applying for a re-entry permit	March 06, 2007
I-131	Application for Travel Document	Refugee or asylee applying for a refugee travel document	March 06, 2007
I-131	Application for Travel Document	Haitian Refugee Immigrant Fairness Act (HRIFA) principal applying for advance parole	March 26, 2007
I-131	Application for Travel Document	Haitian Refugee Immigrant Fairness Act (HRIFA) dependent applying for advance parole	October 14, 2006
I-131	Application for Travel Document	All other applicants for advance parole	March 26, 2007
I-140	Immigrant Petition for Alien Worker	Extraordinary ability	October 03, 2006
I-140	Immigrant Petition for Alien Worker	Outstanding professor or researcher	December 11, 2006
I-140	Immigrant Petition for Alien Worker	Multinational executive or manager	September 07, 2006

I-140	Immigrant Petition for Alien Worker	Schedule A Nurses	September 18, 2006
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability	September 14, 2006
I-140	Immigrant Petition for Alien Worker	Advanced degree or exceptional ability requesting a National Interest Waiver	August 01, 2006
I-140	Immigrant Petition for Alien Worker	Skilled worker or professional	October 06, 2006
I-140	Immigrant Petition for Alien Worker	Unskilled worker	October 20, 2006
I-212	Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal	Readmission after deportation or removal	January 13, 2007
I-360	Petition for Amerasian, Widow(er), or Special Immigrant	All other special immigrants	January 13, 2007
I-485	Application to Register Permanent Residence or to Adjust Status	Employment-based adjustment applications	August 20, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Based on grant of asylum more than 1 year ago	February 01, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Based on refugee admission more than 1 year ago	August 01, 2006
I-485	Application to Register Permanent Residence or to Adjust Status	Under the Haitian Refugee Immigrant Fairness Act (HRIFA)	January 13, 2007
I-485	Application to Register Permanent Residence or to Adjust Status	Under the Indochinese Adjustment Act	January 13, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change of status to H or L dependents	April 04, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change status to the F or M academic or vocational student categories	April 04, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Change Status to the J exchange visitor category	April 04, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other change of status applications	April 04, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of stay for H and L dependents	April 04, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for F or M academic or vocational students	April 04, 2007
I-539	Application to Extend/Change Nonimmigrant Status	Extension of Stay for J exchange visitors	April 04, 2007
I-539	Application to Extend/Change Nonimmigrant Status	All other extension applications	April 04, 2007
I-612	Application for Waiver of the Foreign Residence Requirement	Application for a waiver of the 2-year foreign residence requirement based on exceptional hardship or persecution	December 15, 2006
I-730	Refugee/Asylee Relative Petition	Petition for accompanying family members of a refugee or an asylee	July 20, 2006
I-751	Petition to Remove the Conditions on Residence	Removal of lawful permanent resident conditions (spouses of U.S. citizens and lawful permanent residents)	November 12, 2006
I-765	Application for Employment Authorization	Based on an approved asylum application [(a) (5)]	June 16, 2007

I-765	Application for Employment Authorization	Based on a request by a qualified F-1 academic student. [(c)(3)]	April 28, 2007
I-765	Application for Employment Authorization	Based on a pending asylum application [(c)(8)]	June 16, 2007
I-765	Application for Employment Authorization	Based on a pending I-485 adjustment application [(c)(9)]	March 26, 2007
I-765	Application for Employment Authorization	All other applications for employment authorization	April 27, 2007
I-817	Application for Family Unity Benefits	Voluntary departure under the family unity program	January 13, 2007
I-824	Application for Action on an Approved Application or Petition	To request further action on an approved application or petition	November 29, 2006

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